

Message

From: McNally, Robert [/O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=EFA5514317E34B9895687D73730FDDE9-ROBERT MCNALLY]
Sent: 10/25/2018 5:27:00 PM
To: Jones, Russell [Jones.Russell@epa.gov]
CC: Ellis, Frank [Ellis.Frank@epa.gov]; Leahy, John [Leahy.John@epa.gov]
Subject: Re: PBS Guidance - One last look before I send to Prasad in FEAD

Send

Sent from my iPhone

On Oct 25, 2018, at 1:21 PM, Jones, Russell <Jones.Russell@epa.gov> wrote:

If everyone is happy with what I have below, I will send to Prasad

From: Jones, Russell
Sent: Thursday, October 25, 2018 12:00 PM
To: McNally, Robert <McNally.Robert@epa.gov>; Leahy, John <Leahy.John@epa.gov>; Ellis, Frank <Ellis.Frank@epa.gov>
Subject: RE: PBS Guidance - One last look before I send to Prasad in FEAD
Importance: High

Bob:

I think I would change: FIFRA definition of what a plant regulator does. to FIFRA definition of how a plant regulator functions.

Russ

From: McNally, Robert
Sent: Thursday, October 25, 2018 11:56 AM
To: Jones, Russell <Jones.Russell@epa.gov>; Leahy, John <Leahy.John@epa.gov>; Ellis, Frank <Ellis.Frank@epa.gov>
Subject: FW: PBS Guidance - One last look before I send to Prasad in FEAD

See below. I think this is a better way to say it, and accurate. Russ, does this address her comment?

From: McNally, Robert
Sent: Thursday, October 25, 2018 11:46 AM
To: McNally, Robert <McNally.Robert@epa.gov>
Subject: Fwd: PBS Guidance - One last look before I send to Prasad in FEAD

Sent from my iPhone

Begin forwarded message:

From: "Jones, Russell" <Jones.Russell@epa.gov>
Date: October 25, 2018 at 9:26:38 AM EDT

To: "McNally, Robert" <McNally.Robert@epa.gov>

Cc: "Ellis, Frank" <Ellis.Frank@epa.gov>, "Leahy, John" <Leahy.John@epa.gov>, "Borges, Shannon" <Borges.Shannon@epa.gov>

Subject: RE: PBS Guidance - One last look before I send to Prasad in FEAD

Bob:

The short answer is YES. But..... there are substances that do not fit within the exclusions, but are still not within the definition of a plant regulator. Examples would be osmoregulatory substances (glycine betaine), or other substances that may reduce transpiration, increase photosynthetic rate, or protect against temperature extremes. The list could be endless. How about the following teaks in Blue:

Executive Summary: In recognition of the growing categories of products generally known as plant biostimulants, this document is intended to provide guidance on identifying product label claims that are considered to be plant regulator claims by the Agency, thereby subjecting the products to regulation under FIFRA as pesticides. Examples are provided of both claims that *are* considered plant regulator claims and claims that *are not* considered plant regulator claims. EPA is taking this step since there has been some confusion among industry and States as to how the emerging product area, called plant biostimulants, does or does not trigger FIFRA's plant regulator requirements. Although FIFRA does not define the term plant biostimulants, some products being sold as plant biostimulants may trigger regulation under FIFRA as plant regulators. Other PBS products ~~may will not trigger regulation~~ involve EPA oversight since they are ~~because they do not fall within the exclusions~~ excluded from the plant regulator definition under FIFRA Section 2(v), or do not fit within the specific FIFRA definition of what a plant regulator does. The background section of this document provides examples of plant biostimulant definitions that have been proposed in the 2018 House of Representatives Farm Bill and by the European Commission. This guidance seeks to provide clarity on what are and are not plant regulators to assist industry and EPA's State partners. As guidance, this document is not binding on the Agency or any outside parties, and the Agency may depart from it where circumstances warrant and without prior notice. The Agency is seeking comment on this document.

Russ

From: McNally, Robert

Sent: Wednesday, October 24, 2018 4:55 PM

To: Jones, Russell <Jones.Russell@epa.gov>

Cc: Ellis, Frank <Ellis.Frank@epa.gov>; Leahy, John <Leahy.John@epa.gov>; Borges, Shannon <Borges.Shannon@epa.gov>

Subject: RE: PBS Guidance - One last look before I send to Prasad in FEAD

Russ,

I am fine with how you addressed Charlotte's comment. So, I think you can send to FEAD, BUT

I have just one more thing to clarify based on our conversation on the bus yesterday, and what you added to the summary based on Charlotte's comment. I think you said that if a PBS is not a PGR, then it must be a soil amendment, or a plant inoculant, etc (

one of the things FIFRA excludes), and that is what your language says that you added in blue based on Charlotte's comment.

My question is this: is there any PBS that you know of that is not a PGR, not a soil amendment, not a plant inoculant or anything else FIFRA excludes? Are there PBSs that do not fall within the exclusions under FIFRA but are not PGRs, too? If there are, then the language we are adding based on Charlotte's comment is incorrect. Are there things (i.e., some PBSs) that enhance water use, nutrient uptake, etc, that cannot be called one of the exclusions?

Does my question make sense?

If the answer is that all PBS that are not PGRs are covered in the FIFRA exclusions, send on to FEAD. If there is yet a new category – non-PGR, non FIFRA excluded, then I think the language in BLUE needs to be tweaked.

Bob

From: Jones, Russell

Sent: Wednesday, October 24, 2018 12:05 PM

To: McNally, Robert <McNally.Robert@epa.gov>

Subject: PBS Guidance - One last look before I send to Prasad in FEAD

Bob:

I know that you said I could send it off with minor changes, but I would feel better if you looked at it one more time.

I added my own text for Charlotte about the exclusions in the Exec Summary on page 3 (see Mark-up Copy) and noted that we already discussed the exclusions in the last paragraph of the Background section (so no changes there).

I removed a word (Similarly) at the beginning of the second to the last paragraph in Background section, since it did not belong.

I accepted Erik Baptiste's very minor word changes (they won't show up in the mark up copy)

If its good to go I will send the Clean Copy to Prasad/.

Russ